

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

CARL A. TUCKER,)
Petitioner,)
v.) Nos. 3:16-CV-48-PLR
3:03-CR-88-PLR-CCS-2
UNITED STATES OF AMERICA,)
Respondent.)

MEMORANDUM OPINION

Federal prisoner Carl Tucker (“Petitioner”) filed for post-conviction relief pursuant to 28 U.S.C. § 2255 on July 21, 2006 [Doc. 125].¹ The Court denied relief on August 9, 2006, finding the undisputed record conclusively precluded the requested collateral relief [*see generally* Docs. 126, 127]. Petitioner filed a second petition attacking the same conviction on October 24, 2008 [Doc. 136; *see generally* E.D. Tenn. Case No. 3:08-cv-437]; the Sixth Circuit denied permission to file the successive motion on October 2, 2009 [Doc. 139]. Petitioner filed his third § 2255 motion attacking the July 5, 2005 conviction [E.D. Tenn. Case No. 3:03-cr-88]—this time relying on the Supreme Court decision in *Johnson v. United States*, 135 S. Ct. 2551 (2015) [E.D. Tenn. Case No. 3:16-cv-48]—on January 25, 2016 [Doc. 51].

Under the “Antiterrorism and Effective Death Penalty Act of 1996,” Petitioner cannot file a second or successive § 2255 petition in the District Court until he has moved in the United States Court of Appeals for the Sixth Circuit for an order authorizing the District Court to consider the motion. 28 U.S.C. § 2255(h). No such order has been received by this Court.

¹ Each document will be identified by the Court File Number assigned to it in the underlying criminal case: E.D. Tenn. Case No. 3:03-cr-88.

Accordingly, the Clerk will be **DIRECTED** to **TRANSFER** this action to the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. § 1631 and **CLOSE** the case [Doc. 51]. *See Sims v. Terbush*, 111 F.3d 45, 47 (6th Cir. 1997).

ORDER ACCORDINGLY.



UNITED STATES DISTRICT JUDGE